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Established 1934

December 6, 2006

Members of the House Family and Children Services Committee,

The Oakland County Bar and the Oakland County Family Law Committee have consistently taken positions that support the best interests of the child in the determination of custody disputes and have opposed legislation which would eliminate the minor child's best interests from consideration in awards of custody, such as HB 5267.

We have repeatedly taken the position that each matter must be taken on a case-by-case basis, and that blanket positions are not beneficial to the children or their needs. This bill would in essence, make the children the chattel of their parents, and ignore all laws pertaining to enhancing established custodial environments or addressing the children's best interest. Moreover, it is wrong to move away from a child centered analysis to one that focuses on the parents.

The Oakland County Bar and the Oakland County Family Law Committee urge all legislators to oppose HB 5267.

Regards,

Gerald P. Canellier

Chairman, Oakland County Family Law Committee

OAKLAND COUNTY BAR ASSOCIATION
REPORT OF REQUESTED LEGISLATIVE ACTION

DATE FORWARDED TO LEGISLATIVE COMMITTEE	<u>10/12/05</u>
DATE FORWARDED TO OCBA BOARD	<u>11/02/05</u>
DATE FORWARDED TO MUCHMORE, HARRINGTON	<u>11/07/05</u>
DATE RETURNED TO ORIGINATING COMMITTEE	<u>11/07/05</u>

COMMITTEE SUBMITTING REQUEST FOR ACTION Family Court

CONTACT PERSONS FROM COMMITTEE (NAMES & PHONE NOS.)

Sandra Glazier (248) 539-1060; Traci Rink (248) 858-1840

SENATE AND/OR HOUSE BILL NOS.

HB 5267 (represents a concept which was essentially reviewed and proposed in SB 657, in 2001).

SUMMARY OF PROPOSED LEGISLATION* Under each of these bills, the Court would be required to order Joint Custody unless one of two exceptions applied. The first exception to HB 5267 is even more stringent than that opposed under SB 657. Under HB 5267 the Court would have to grant joint custody unless it was established by clear and convincing evidence that a parent is unfit, unwilling, or unable to care for the child. The second exception would be if a parent moves his residence outside of the school district that the child had attended during the previous one-year period, and mandate mediation to determine (under this specific circumstance) a custody agreement that maximizes both parents' ability to participate equally in a relationship with their child while accommodating the child's school schedule. It also eliminates the Court's discretion to determine if a custody arrangement agreed to by the parties is in the child's best interest. It also mandates that if joint custody is awarded, the Court shall provide for parenting time that is specific and for substantially equal periods of time. It also appears to eliminate distinctions between physical and legal custody.

SENATORS/REPRESENTATIVES SPONSORING LEGISLATION Mortimer, Gosselin, Googendyk, Sheen, Vander Veen, Huizenga, Hummel, Ward, Taub, Caswell and Gaffney.

POSITION ADVOCATED BY COMMITTEE (AND WHETHER SUCH POSITION WAS UNANIMOUS OR OTHERWISE)* Oppose - unanimously

RATIONALE FOR POSITION* The Family Law Committee (and this Bar Association) have repeatedly taken positions that support the best interests of the child in the determination of custody disputes and opposed legislation which would eliminate the minor child's best interests from consideration in awards of custody. We have always taken the position that each matter must be taken on a case-by-case basis, and that blanket positions are not beneficial to children or their needs. This bill would, in essence, make children the chattel of their parents, and ignore all laws pertaining to enhancing established custodial environments or addressing the children's best interest.

* Please attach additional sheets if required